

United States District Court

WESTERN DISTRICT OF NORTH CAROLINA

FILED
ASHEVILLE, N.C.

SEP 10 2007

U.S. DISTRICT COURT
W. DIST. OF N.C.

UNITED STATES OF AMERICA

v.

CRIMINAL COMPLAINT

ROBERT ANDREW POWER

NUMBER: 1:07mj102

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about September 7, 2007 in Buncombe County, in the

Western District of North Carolina defendant(s) did, (Track Statutory Language o

attempt to persuade, induce, entice, or coerce any individual who has not attained the age of 18 years to engage in any sexual activity for which one can be charged with a criminal offense and in so doing used a facility and means of interstate and foreign commerce, that being the use of a computer via the Internet

in violation of Title 18 United States Code, Section(s) 2422(b).

I further state that I am a(n) Special Agent - Federal Bureau of Investigation and that this complaint is based on the following facts:

Official Title

See Attached Affidavit hereby incorporated by reference as if fully restated herein.

Continued on the attached sheet and made a part hereof:

Yes No


 SA Andrew F. Grafton

Sworn to before me and subscribed in my presence,

Special Agent
Federal Bureau of Investigation

September 10, 2007 at Asheville, North Carolina

Dennis L. Howell U.S. Magistrate Judge
Name & Title of Judicial Officer

Signature of Judicial Officer

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

Your affiant, Andrew F. Grafton, being duly sworn, deposes and states as follows:

INTRODUCTION

1. I am employed as a Special Agent (SA) of the Federal Bureau of Investigation (FBI), an investigative law enforcement officer of the United States of America as described in Title 18, United States Code, Section 2510(7), and have been so employed for approximately three years. I am currently assigned to the Asheville Resident Agency within the Charlotte Division of the Federal Bureau of Investigation and am responsible for investigating computer crimes. I have executed many search warrants and arrest warrants in connection with these and other types of crimes.

2. I am conducting an investigation involving the sexual exploitation of children and related activities of the individual named herein. I have personally participated in the investigation of the offense referred to herein, and because of my personal participation in this investigation and reports made to me by members of participating law enforcement agencies, I am familiar with the facts and circumstances of this investigation.

3. Although I am familiar with the full breadth of the facts and circumstances of this investigation, I have not included in the affidavit each and every fact known to me about the matters set forth herein, but only those facts and circumstances that I

believe are sufficient to establish probable cause for this Court to authorize the issuance of a criminal complaint.

4. This affidavit is made in support of a criminal complaint against Robert Andrew Power (Power) of 49 Lawterdale Circle, Asheville, North Carolina, for violation of Title 18 USC 2422(b).

5. 18 USC 2422(b) makes it a federal crime to attempt to persuade, induce, entice, or coerce any individual who has not attained the age of 18 years to engage in any sexual activity for which one can be charged with a criminal offense, including but not limited to taking indecent liberties with a child in violation of N.C.G.S. § 14-202.1, statutory rape of a person who is 13, 14, or 15 years old in violation of N.C.G.S. § 14-27.7A, statutory sexual offense against a person who is 13, 14, or 15 years old in violation of N.C.G.S. § 14-227.7A, and crime against nature in violation of N.C.G.S. § 14-177, and in so doing used a facility and means of interstate and foreign commerce, that being the use of a computer via the Internet, all in violation of Title 18 USC 2422(b).

6. The Internet is a worldwide computer network that connects computers and allows communications and the transfer of data and information across state and national boundaries.

7. Chat, Chatting, Chat Rooms or Chat Sessions on the Internet refers to real time communication between two or more individuals. Once the chat session is initiated, the actual communication is

completed via text by typing on the keyboard and sending the message to the other individual's computer and the text will appear on the other user's computer monitor. Most networks and online Internet services offer the chat or feature including Yahoo.

PROBABLE CAUSE

8. On September 7, 2007, a Buncombe County Sheriff's Office, (BCSO) Buncombe County North Carolina, Detective was conducting an online Internet investigation using an undercover Yahoo account with Yahoo screen name "woodfinchic4fun" and whose profile indicated was a female named Brooke. The BCSO Detective was in a Yahoo Local Romance Chat Room when woodfinchic4fun received an Instant Message from Yahoo screen name "powertool_wnc" requesting to initiate a conversation. The BCSO Detective immediately stated that he was a 14 year old female from the Asheville, North Carolina area, stating "oh ok im 14f." Powertool_wnc responded "right on". Powertool_wnc continued, stating that he was a 28 year old male. The BCSO Detective sent a picture to powertool_wnc depicting a 14 year old female.

9. Powertool_wnc continued the conversation with woodfinchic4fun, turning the conversation to a sexual nature:
powertool_wnc---"you have sexy lips" (referring to the UC picture of the 14 year old girl).

...
powertool_wnc---"sorry-I was fantasizing"

woodfinchic4fun--- "cool...wat were u fantasizing bout? ☺"

...
powertool_wnc--- "you"

10. The BCSO detective continued to have several chat sessions with powertool_wnc in which the BCSO Detective continued to inform powertool_wnc that woodfinchic4fun was 14 years old. All of the chat sessions occurred on September 7, 2007. Powertool_wnc verified the he knew that woodfinchic4fun was 14 years old.

11. During the chat sessions, woodfinchic4fun asked powertool_wnc, "what do you want to do?" Powertool_wnc kept the conversation in a sexual nature.

Powertool_wnc responded "not sure---kinda horny though"

...
woodfinchic4fun--- "so whatcha thinkeing?" (intentional misspelling)

powertool_wnc--- "about whatcha got under those tight jeans"

...
powertool_wnc--- "I'm hard"

12. During one of the chat sessions, powertool_wnc continued asking woodfinchic4fun questions of a sexual nature.

powertool_wnc--- "are u shaved or have any hair?"

woodfinchic4fun---" down there"

powertool_wnc---"dwnn there?"

woodfinchic4fun---"ya"

13. Powertool_wnc then began talking about possibly meeting woodfinchic4fun somewhere in the Asheville area. Powertool_wnc sent, "I could pick ya up somewhere if you like". The BCSO Detective provided powertool_wnc an opportunity to back out of meeting her.

woodfinchic4fun---"if ur cool with my age and stuff im cool with urs age"

woodfinchic4fun---"I mean if u don't wanna meet then its cool with me"

powertool_wnc---"I do"

14. Powertool_wnc began describing to woodfinchic4fun some of the things they could do when they met.

powertool_wnc---"well, u like to be felt up and fingered?"

...

powertool_wnc---"oh ya--- I mean u wanna start out today be just oral masturbation on each other?"

...

powertool_wnc---"good---nice--- I can start off just rubbing on ur jeans back and forth and see where that takes us"

15. The BCSO Detective and powertool_wnc arranged to meet at the Food Lion store located at 55 Weaverville Road, Woodfin, North Carolina at approximately 12:30PM on September 7, 2007.

16. At approximately 12:30PM, the BCSO Detective observed a white truck park in the Food Lion parking lot. A man exited the vehicle and entered the Food Lion store while talking on a cellular telephone. The man was in the Food Lion store for less than a minute when he returned to the truck. The man got back into the truck and waited.

17. After the man sat in the truck for approximately one minute, the BCSO Detective approached the truck with the picture that had been posted on powertool_wnc Yahoo profile. The man in the truck appeared to be the man pictured on the Yahoo powertool_wnc profile. The BCSO Detective showed the man the picture and asked him if this was a picture of him. He replied "yes." The BCSO Detective asked what was his screen name. He stated "powertool_wnc." The BCSO Detective placed him in custody for the state charge of "Solicit Child By Computer." He was identified as Robert Andrew Power and determined to be 37 years old.

18. The BCSO Detective transported Power to the BCSO. The BCSO Detective provided Power with his Advice of Rights prior to initiating an interview of Power. During the interview, Power

stated "my intentions were to meet "Brooke" and most likely talk to see how comfortable I was with her first." Power also stated that "I know what I did was wrong."

19. During the interview, Power told the BCSO Detective that his intent was self masturbation and have Brooke masturbate herself. Power admitted to having a sexual addiction or problem.

20. Power wrote a statement for the BCSO Detective in which he states, "I Robert Power do admit to the charges brought before me I do accept my consequences that will become of this and whole heartedly do wish to be forgiven."

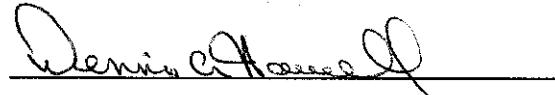
CONCLUSION

21. Based upon the forgoing, there is probable cause to believe that Robert Andrew Power did attempt to persuade, induce, entice, or coerce any individual who has not attained the age of 18 years to engage in any sexual activity for which one can be charged with a criminal offense and in so doing used a facility and means of interstate and foreign commerce, that being the use of a computer via the Internet in violation of Title 18 USC 2422(b).



Andrew F. Grafton
Special Agent
Federal Bureau of Investigation

Sworn and subscribed before me this 10th day of September 2007.



Dennis Howell
United States Magistrate Judge